

REMARKS

The provisional election of claims 1-26 is hereby affirmed. Claims 27-40 are withdrawn.

The Examiner's indication that claims 6-26 would be allowable if rewritten in independent form is noted with appreciation. Claim 1 has been amended to include the limitations of claims 2-6.

Claims 1-5 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,853,234 to Bentley et al. Original claim 3 has been rewritten in independent form as new claim 41 and original dependent claim 4 has been rewritten as new claim 42 dependent from claim 41. It is respectfully submitted that claim 3 is not anticipated by Bentley et al.

Claim 41 recites a partition that hinders entry of at least a portion of the one or more liquid beverage ingredients into the aqueous medium flow path. The aqueous medium flow path is between the inlet and the outlet, and the compartment contains the one or more liquid beverage ingredients. The Office action states that the castellations 29 separated by the slots 28 of Bentley are a partition. However, the castellations 29 and slots 28 of Bentley are upstream of the compartment 21 which contains the beverage ingredients, and thus do not hinder entry of the beverage ingredients therein into any flow path from between the inlet and the outlet.

New claims 43-51 are also submitted to be patentable over Bentley.

Reconsideration and allowance of claims 1, 7-26 and 41-51 are respectfully requested.

Application No. 10/763,915
Amendment dated February 13, 2007
Reply to the Office action of November 13, 2006

The Commissioner is hereby authorized to charge any which may be required in this application to Deposit Account No. 06-1135.

Respectfully submitted,

FITCH, EVEN, TABIN & FLANNERY

Date: February 13, 2007

/Jon A. Birmingham/

Jon A. Birmingham

Registration No. 51,222

FITCH, EVEN, TABIN & FLANNERY
120 S. LaSalle Street, Suite 1600
Chicago, Illinois 60603-3406
Telephone: 312.577.7000
Facsimile: 312.577.7007

471735